

Interim Decision #2002

MATTER OF YALDO
In Deportation Proceedings
A-13777983

Decided by Board July 8, 1969

Where the "good faith" of an alien's supporting marriage for adjustment of status under section 245 of the Immigration and Nationality Act, as amended, is a relevant issue, testimony of the alien's wife concerning confidential communications between the spouses during the period of coverage is admissible in evidence in rescission proceedings under section 246 of the Act.

CHARGE:

Order: Act of 1952—Section 241(a)(2) [8 U.S.C. 1251(a)(2)]—Nonimmigrant student—remained longer.

ON BEHALF OF RESPONDENT:

John Palumbo, Esquire
21261 Kelly Road
East Detroit, Michigan 48021

ON BEHALF OF SERVICE:

R. A. Vielhaber
Appellate Trial Attorney

The respondent, a native and citizen of Iraq, appeals from an order entered by the special inquiry officer on December 26, 1968 granting him voluntary departure in lieu of deportation as an alien who, after entry as a nonimmigrant student, has remained in the United States longer than permitted (8 U.S.C. 1251(a)(2)). Exceptions have been taken to the finding of deportability and to an order entered on August 12, 1968 rescinding the adjustment of the respondent's immigration status to that of a permanent resident alien pursuant to section 246 of the Immigration and Nationality Act (8 U.S.C. 1255).

The respondent, a divorced male alien, 22 years of age, last entered the United States through the port of Boston, Massachusetts on or about July 14, 1965. He was then admitted as a nonimmigrant student for a period to expire on July 13, 1966. His status was adjusted to that of a permanent resident alien on April 21, 1967. He acquired immediate relative status on the basis of a marriage to a United States citizen on December 12, 1966.